

REMARKS

Applicant has carefully reviewed the Application in light of the Decision of the Board of Patent Appeals mailed on October 6, 2011 (hereinafter “the Decision”). At the time of the Decision, claims 9-11, 21-23, 33-35, and 37-43 were pending in the Application. Applicant amends Independent Claim 9 without prejudice or disclaimer. This amendment is not the result of any Prior Art reference and, thus, does not narrow the scope of any of the claims. Furthermore, the amendments only further clarify subject matter already present. All of Applicant’s amendments have been made only to advance prosecution in this case. Applicant respectfully requests reconsideration of the pending claims and favorable action in this case.

Reversal on Appeal

Applicant notes that the Board reversed the Examiner’s rejection of claim 21-23 and 33-35 without entering a new ground of rejection. Consequently, these claims are in condition for allowance without further action.

Section 101 Rejection

In the Decision, a new ground of rejection was entered by the Board of Patent Appeals pursuant to 37 C.F.R. § 41.50(b), thereby rejecting claims 9-11 and 37-43 under 35 U.S.C. §101, as being directed to non-statutory subject matter. Applicant has made a modest amendment to the identified Independent Claim in an effort to address the new ground of rejection set forth in the Decision. Any amendment in this regard should not be construed as an agreement with or acquiescence to the propriety of the Decision.

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PATENT APPLICATION
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CONCLUSION

Applicant has now made an earnest attempt to place this case in condition for immediate allowance. For the foregoing reasons and for all other reasons clear and apparent, Applicant respectfully requests reconsideration and allowance of the pending claims.

A Request for Continued Examination and fee for filing same are submitted concurrently herewith. An Information Disclosure Statement is also submitted concurrently herewith. No additional fees are believed due. However, please apply any other charges or credit any overpayment to Deposit Account No. 50-4889 of PATENT CAPITAL GROUP, referencing the attorney docket number referenced above.

If there are matters that can be discussed by telephone to advance prosecution of this application, Applicant invites the Examiner to contact Thomas J. Frame at (214) 823-1241.

Respectfully submitted,

Patent Capital Group
Attorneys for Applicant

/Thoams J. Frame/

Thomas J. Frame
Reg. No. 47,232

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Customer No. 97298